

REMARKS

In the Office Action mailed by the United States Patent and Trademark Office on June 22, 2007, claim 12 is rejected under 35 U.S.C. 112, second paragraph and claims 1, 7-8, 11-12, 22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP2000-095663 to Kondo et al in view of Elkins (Hawaiian Noni, 1998) in further view of Vatter et al (6,224,888).

Claim Rejections Under 35 U.S.C. § 112

Claims 12 has been amended to recite “between about 5 and 10 percent.” Accordingly, Applicant respectfully requests the withdrawal of the § 112 rejections.

Claim Rejections Under 35 U.S.C. § 103

To establish a case of obviousness, three criteria must be met, “[f]irst, there must be some suggestion or motivation . . . to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2142. For the reasons set forth below, Applicant submits that the relevant prior art fails to teach or suggest all the claim limitations; thus, Applicant’s claims are not obvious in view of the prior art references.

Kondo in view of Elkins and Vatter

Claims 1, 7-8, 11-12 and 27 stand rejected under Section 103 as unpatentable over Kondo in view of Elkins and Vatter. The combination does not “teach or suggest all the claim limitations” of the present invention. M.P.E.P. § 2142. Specifically, the combination fails to teach lip care, or the presence of *Morinda citrifolia* seed oil in combination with specific quantities of *Morinda citrifolia* juice.

Kondo teaches *Morinda citrifolia* extract not *Morinda citrifolia* juice and not *Morinda citrifolia* seed oil. Kondo specifically indicates that “extracts [are] selected from ... plants [including]... *Morinda citrifolia* L ...” Consequently, Kondo does not teach the specific combination of *Morinda citrifolia* seed oil and fruit juice. In fact, Kondo teaches away from using *Morinda citrifolia* as claimed in the present invention. Kondo indicates that vegetable or fruit products alone fail to be effective treatment. Kondo, page 2 paragraph 4. Particularly, Kondo indicates that the antibacterial effects of vegetable extracts alone have a low effect. The present invention claims a composition for lip care, which may consist almost entirely of *Morinda citrifolia*. Thus, Kondo teaches away from using *Morinda citrifolia* as claimed in the present invention.

Further, Kondo teaches the use of vegetable or fruit extracts to inhibit melanin (to promote white skin), as astringents, (which would dry the skin) for removing the natural oils and sebum, as an antioxidant and as an antibacterial agent. Lips do not produce melanin like skin. Thus, one skilled in the art would recognize that Kondo’s method for skin whitening is inapplicable to lips. Astringents cause dry skin, by removing excess oils and sebum. The drying effects of an astringent would have an undesirable effect on lips, which do not produce oil or sebum. Lips would benefit from the use of an antioxidant, but it is unclear that the extracts taught by Kondo would provide lip care. Thus, the Kondo disclosure fails to teach or suggest the claim limitation found in independent claim 1.

Elkins fails to “teach or suggest all the claim limitations” of the present invention. M.P.E.P. § 2142. Elkins teaches the use of parts of the noni plant. Elkins only reference to the seeds is a cursory statement that they may be used for a purgative effect. However, Elkins does not disclose the use *Morinda citrifolia* seed oil. And, Elkins does not disclose the combination of *Morinda citrifolia* seed oil in *Morinda citrifolia* juice in specific quantities as claimed in the

present invention. Consuming seeds to increase the fiber content of a diet does not read on providing a topical lip care composition comprising specific quantities of seed oil in combination with the other elements as recited in claim 1 of the present invention. Accordingly, the combination of Kondo and Elkins fails to teach or suggest all of the recited limitations of the present claim set.

The Examiner suggests that page 30 of Elkins provides a suggestion to use noni as a skin healing agent due to the presence of proxeronine. Elkins discloses at various places including page 19, 20 and 30 traditional uses of noni. Specifically, Elkins discloses uses for noni including: delayed menstruation, antiphrostatic activity, respiratory ailments, diarrhea, to kill intestinal parasites, stomach ailments, diseased gums, tuberculoses, fever, eye complaints, inflamed gums, sore throats, boils, swelling, arthritic joints and ringworm. Elkins, 19-20. Further on page 30, Elkins indicates that noni is used as a skin healing agent. In particular, Elkins indicates that noni is used as a poultice for wounds, burns and bruises. The content of the Elkin's discussion focuses on the benefits of using a noni poultice for quickly removing dead tissue from burns. Thus, Elkins teaches the removal of dead skin from burns not the topical application of oil from seeds of *Morinda citrifolia* for lip care. Thus, the combination of Kondo in view of Elkins fails to teach or suggest the combination of limitations claimed in the present invention.

Vatter is cited in the pending Action as teaching a skin care treatment that contains Ozokerti, beeswax and mixtures thereof. However, Vatter does not ameliorate the failure of Elkins and Kondo to teach or suggest the combination of *Morinda citrifolia* seed oil and *Morinda citrifolia* juice in specific quantities as claimed in the present invention for lip care. Accordingly, the claims of the present invention are patentable over the art cited.


CONCLUSION

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

Dated this 20 day of September, 2007.

Respectfully submitted,

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